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NASA Procedural Requirements

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COMPLIANCE IS MANDATORY

Plan For A Drug-Free Workplace

Responsible Office: Office of Human Capital Management

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Preface

P.1 Purpose

NASA strives to ensure a workplace that is free of illegal drugs and to eliminate illegal drug use by all employees in the NASA workplace. This NPR establishes the responsibilities, procedures, and guidelines for a comprehensive Drug-Free Workplace Program, as required by law and approved by the Department of Health and Human Services (HHS). It provides Agency direction, which should be used in conjunction with the referenced statutory and regulatory requirements. Center Personnel Offices should be consulted for further information and guidance.

P.2 Applicability

This NPR is applicable to NASA Headquarters and NASA Centers, including Component Facilities, and the Office of the Inspector General. Unless stated otherwise, the use of the word Center(s) in the text of this NPR includes Headquarters, and any reference to Center Director(s) includes the Director for Headquarters Operations.

P.3 Authority

- a. Executive Order 12564, dated September 15, 1986.
- b. Executive Order 10450, dated April 27, 1953.
- c. Section 503 of Public Law 100-71, dated July 11, 1987.
- d. Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 FR 11970, April 11, 1988, as revised, 59 FR 29908, June 9, 1994; and 62 FR 51118, September 30, 1997.
- e. Civil Service Reform Act of 1978 (CSRA), Public Law 95-454.
- f. 42 CFR Part 2.
- g. The Privacy Act of 1974 (5 U.S.C. 552(a)).
- h. Federal Employees Substance Abuse Education and Treatment Act of 1986, Title VI of Public Law 99-570 (5 U.S.C. 7361).
- i. Section 628 of the Treasury, Postal Service, and General Government Appropriations Act of 1989, Public Law 100-440, as amended.
- j. Civilian Space Employee Testing Act of 1991 (42 U.S.C. 2473c).

P.4 References

- a. NPD 3000.1, Management of Human Resources.
- b. NPR 3752.1, Disciplinary and Adverse Actions.
- c. NPD 1382.17, Privacy Act -Internal NASA Direction in Furtherance of NASA Regulation.
- d. NPD 1830.1, NASA Employee Assistance Program.
- e. 5 U.S.C. 7103.

f. 42 U.S.C. 290.

g. Drug and Alcohol Testing of Contractor Employees 48 CFR 1852.223.

P.5 Cancellation

NPR 3792.1, dated May 7, 1999.

/s/ Vicki A. Novak
Associate Administrator for Human Resources and Education

Chapter 1. Introduction

1.1 Background

1.1.1. On September 15, 1986, President Reagan signed Executive Order (E.O.) 12564 (hereafter, "the Order") Drug-Free Federal Workplace, which established the goal of a drug-free workplace and made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty.

1.1.2. On July 11, 1987, Congress passed Public Law 100-71, the Supplemental Appropriations Act of 1987 (hereafter, "the Act"). Section 503 of the Act affects implementation of E.O. 12564 by requiring the following:

1.1.2.1. Uniformity among agency drug-testing plans.

1.1.2.2. Reliable and accurate drug testing.

1.1.2.3. Employee access to drug-testing records.

1.1.2.4. Confidentiality of drug-test results.

1.1.2.5. Centralized oversight of the Federal Government's drug-testing program.

1.1.3. NASA was established by the National Aeronautics and Space Act of 1958, as amended, wherein Congress declared the following:

1.1.3.1. It is the policy of the United States that activities in space be devoted to peaceful purposes for the benefit of all mankind.

1.1.3.2. The general welfare and security of the United States require that adequate provision be made for aeronautical and space activities.

1.1.4. By the same Act, Congress also decreed that the aeronautical and space activities of the United States shall be conducted so as to contribute materially to one or more of the following objectives:

1.1.4.1. The expansion of human knowledge of phenomena in the atmosphere and space.

1.1.4.2. The improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and space vehicles.

1.1.4.3. The development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space.

1.1.4.4. The establishment of long-range studies of the potential benefits to be gained from, the opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes.

1.1.4.5. The preservation of the role of the United States as a leader in aeronautical and space science and technology and in the application thereof to the conduct of peaceful activities within and outside the atmosphere.

1.1.4.6. The making available to agencies directly concerned with national defense of discoveries that have military value or significance, and the furnishing by such agencies, to the civilian agency established to direct and control nonmilitary aeronautical and space activities, of information as to discoveries that have value or significance to that agency.

1.1.4.7. Cooperation by the United States with other nations and groups of nations in work done pursuant to the National Aeronautics and Space Act of 1958, as amended, and in the peaceful application of the results thereof.

1.1.4.8. The most effective utilization of the scientific and engineering resources of the United States, with close cooperation among all interested agencies of the United States, in order to avoid unnecessary duplication of effort,

facilities, and equipment.

1.2 Policy

1.2.1. It is a well-established fact that employees who use illegal drugs, on or off duty, tend to be less productive, less reliable, and prone to greater absenteeism, thereby impairing their ability to perform tasks that are critical to the Agency's mission and resulting in the potential for accidents on duty and failures that can pose serious threats to national security, health, safety, and the protection of property. Illegal drug use is detrimental to the operations and functioning of NASA employees in accomplishing such unique missions as developing and operating vehicles capable of carrying instruments, equipment, supplies, and living organisms through space and making available to agencies, directly concerned with national defense, discoveries that have military value or significance. Due to NASA's scientific and research missions and responsibilities and the sensitive nature of its work, NASA has a compelling obligation to eliminate illegal drug use from the workplace.

1.2.2. Therefore, it is the policy of NASA to ensure a workplace that is free of illegal drugs and to eliminate illegal drug use by all employees in the NASA workplace, including, to the extent possible, contractor employees. To achieve this policy and as a deterrence to illegal drug use, NASA established a comprehensive drug-prevention program that emphasizes the following:

1.2.2.1. NASA employees who are using illegal drugs should be offered the opportunity for rehabilitation.

1.2.2.2. NASA provides drug education and training, employee counseling and assistance, and voluntary drug testing for all employees.

1.2.2.3. NASA employees will be treated with personal dignity, and their privacy will be respected in reaching NASA's goal of a drug-free workplace.

1.2.2.4. NASA guarantees that disciplinary action will not be taken against employees who voluntarily identify themselves as users of illegal drugs and who otherwise comply with the provisions of this Plan.

1.2.2.5. While it is NASA's intent to help employees overcome their drug-related problems, it must be clear to all that illegal drug use by employees will not be tolerated.

1.2.2.6. Active participation and support of labor organizations can contribute to the success of this program. NASA will seek ways in which recognized bargaining unit representatives might assist in program implementation, such as in acquainting employees with rehabilitation facilities and by enhancing employee confidence in the program. NASA will include union representatives in general employee orientation programs and will continue to meet its obligations under Title VII of the Civil Service Reform Act of 1978.

1.2.2.7. While E.O. 12564 mandated that this Plan cover only Federal civil service employees, on March 28, 1996, NASA implemented a requirement for NASA contractors to institute and maintain a program for achieving a drug-free workforce by providing for pre-employment, reasonable suspicion, random, postaccident, and followup testing of contractor employees responsible for safety-sensitive, security, or national security functions as required by the Civil Space Employee Testing Act of 1991. These requirements may be found at 48 CFR 1852.223.

1.2.3. It is the policy of NASA that its workplace be free from the illegal use, possession of, or distribution of controlled substances, (as specified in Schedules I and II, as defined in 21 U.S.C. 802(6) and listed in Part B, Subchapter 13 of that Title) by the officers and employees of NASA. The possession and distribution of controlled substances will be dealt with promptly in accordance with legal and administrative disciplinary procedures. However, the policy's primary goal is to ensure that illegal drug use is eliminated and that NASA's workplace be safe, healthful, productive, and secure.

1.3 Coverage

A drug-free workplace can best be achieved when all personnel who are at the worksite participate in a comprehensive drug-prevention program. This is especially true for NASA, due to its unique operational setting. Since its inception, NASA has benefited from the Government-industry-university team concept in which the nature of NASA's operations in the workplace is such that, in many instances, civil service and contractor employees work in close cooperation. Moreover, while E.O. 12564 mandates that this Plan cover only Federal civil service employees, the Civil Space Employee Testing Act of 1991 requires NASA to prescribe regulations for periodic testing of contractor employees for use of alcohol or controlled substances in violation of applicable law or Federal regulation.

1.4 Nature, Frequency, And Type Of Drug Testing To Be Instituted

Section 503 of the Act requires the NASA Plan to specify the nature, frequency, and type of drug testing to be instituted.

1.4.1. The NASA Plan includes the following types of drug testing:

1.4.1.1. Random testing of employees in Testing Designated Positions (TDP's). The TDP's are listed in Appendix A, and the TDP criteria is contained in Appendix B. NASA management reserves the right to make changes, additions, and deletions to the TDP list, pursuant to the criteria established under the Order and this Plan.

1.4.1.2. Reasonable-suspicion testing.

1.4.1.3. Accident or unsafe-practice testing.

1.4.1.4. Voluntary testing.

1.4.1.5. Testing as part of and as a followup to counseling or rehabilitation.

1.4.2. The frequency of testing will depend on the type of testing to be conducted. Generally, 10 percent of the TDP pool shall be subject to random testing each year. However, NASA management reserves the right to increase or decrease the frequency and testing percentage of any category of drug testing, consistent with the duty to achieve a drug-free workplace under the Order.

1.5 Drugs For Which Individuals Will Be Tested

Section 503 of the Act requires the NASA Plan to specify the drugs for which individuals will be tested. These are listed in Appendix C.

1.6 Definitions

1.6.1. Days -- calendar days unless specified otherwise.

1.6.2. Drug Program Manager (DPM) -- the individual at NASA Headquarters who is responsible for managing the Drug-Free Workplace Program on an Agencywide basis.

1.6.3. Drug Program Manager (DPM) -- the individual at NASA Headquarters who is responsible for managing the Drug-Free Workplace Program on an Agencywide basis.

1.6.4. Employee Assistance Program (EAP) -- the NASA program that offers short-term counseling and referral services to employees for a wide range of drug, alcohol, mental health, and related problems and monitors their progress while in treatment.

1.6.5. EAP Administrator -- the Manager, Agency Occupational Health Program, serves as the EAP Administrator for NASA and is responsible for ensuring the development, implementation, and review of the EAP on an Agencywide basis.

1.6.6. EAP Program Coordinator -- the individual designated at each Center who is responsible for implementing and operating the Center's EAP.

1.6.7. Employees in Sensitive Positions means the following:

1.6.7.1. Employees in positions designated as Special Sensitive, Critical Sensitive, or Noncritical Sensitive;

1.6.7.2. Employees in positions designated as sensitive in accordance with E.O. 10450, as amended;

1.6.7.3. Employees who have been granted access to classified information or who may be granted access to classified information pursuant to a determination of trustworthiness under E.O. 12356;

1.6.7.4. Individuals serving under Presidential appointments;

1.6.7.5. Law enforcement officers as defined in 5 U.S.C. 8331(20) and 8401(17); or

1.6.7.6. Other positions that involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

1.6.8. Illegal Drugs -- a controlled substance included in Schedule I or II, as defined by Section 802(6) of Title 21 of the U.S.C., the possession of which is unlawful under Chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law (see Appendix C).

1.6.9. Management Official -- an employee required or authorized by NASA to formulate, determine, or influence NASA policies (see 5 U.S.C. 7103(a) (11)).

1.6.10. Medical Review Officer (MRO) -- the Manager, Agency Occupational Health Program, serves as the Agency MRO. Each Center's MRO is responsible for receiving laboratory results generated from the NASA Drug-Free Workplace Program and for consulting with the Agency MRO, as needed. Each MRO must be a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.

1.6.11. Random Testing -- a system of drug testing that is imposed without individualized suspicion that a particular individual is using illegal drugs. Random testing may be either of the following:

1.6.11.1. Uniform, unannounced testing of employees in TDP's by specified area, element, or position; or

1.6.11.2. Statistically random sampling of such employees based on a neutral criterion, such as Social Security numbers.

1.6.12. Supervisor -- an employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees to adjust their grievances or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment (see 5 U.S.C. 7103(a)(10)).

1.6.13. Testing Designated Positions (TDP) -- positions within NASA that have been designated by management for random testing under chapter 4, paragraph 4.4.1. (see Appendices A and B).

1.6.14. Verified Positive Test Result -- a drug test that has resulted in one of the following:

1.6.14.1. Tentatively determined to be positive as a result of a screening test approved by the Food and Drug Administration (e.g., the enzyme-multiplied immunoassay technique (EMIT) or the radioimmunoassay (RIA) test).

1.6.14.2. Verified by a testing procedure approved by HHS (e.g., Gas Chromatography/Mass Spectrometry (GC/MS) assay).

1.6.14.3. Evaluated by the MRO and determined by the MRO to be justified under this Plan.

1.7 Effective Date

The NASA Drug-Free Workplace Program was implemented in January 1990 upon HHS certification of all Executive Branch agencies pursuant to Section 503 of the Act.

1.8 Revision Of NASA Plan

NASA reserves the right to make changes, additions, and deletions to this Plan consistent with the Order and Section 503 of the Act.

Chapter 2. Program Management Responsibilities

2.1 Assistant Administrator for Human Resources and Education (HR&E)

The Assistant Administrator for HR&E is responsible for the following:

- 2.1.1. Ensuring the implementation of this Plan.
- 2.1.2. Establishing the processes and procedures necessary to carry out this Plan.
- 2.1.3. Designating the NASA Drug Program Manager (DPM).

2.2 Drug Program Manager (DPM)

The Assistant Administrator for HR&E will designate an official to serve as DPM with responsibility for the NASA Drug-Free Workplace Program on an Agencywide basis. Duties include, but are not limited to, the following:

- 2.2.1. Reporting to the Assistant Administrator for HR&E on the status of the Drug-Free Workplace Program.
- 2.2.2. Overseeing implementation of this Plan on an Agencywide basis.
- 2.2.3. Coordinating all Drug-Free Workplace Program activities wherever possible to conserve resources and to accomplish reliable and accurate testing efficiently.

2.3 Employee Assistance Program (EAP) Administrator

The Manager, Agency Occupational Health Program, serves as the NASA EAP Administrator, and is responsible for the following:

- 2.3.1. Assuming the lead role in the development, implementation, and evaluation of the EAP.
- 2.3.2. Assisting the EAP Coordinator and counselors in establishing their local EAP's.
- 2.3.3. Advising on and preparing statistical reports.

2.4 Medical Review Officer (MRO)

The Manager, Agency Occupational Health Program, serves as the Agency MRO and is responsible for developing and evaluating the Agencywide medical review function as it relates to drug testing, including advising on and preparing statistical reports. Each Center's MRO is responsible for the following:

- 2.4.1. Reviewing laboratory test results of the Center's employees.
- 2.4.2. Ensuring that an individual who has tested positive has been afforded an opportunity to justify the test result in accordance with chapter 4, paragraph 4.1.
- 2.4.3. Evaluating and determining if the positive test result is justified or unjustified, based on an assessment pursuant to chapter 4, paragraph 4.1.
- 2.4.4. Consistent with confidentiality requirements, referring written determinations regarding all verified positive test results to the Center's DPC (see chapter 2, paragraph 2.5).
- 2.4.5. Consulting with the Agency MRO, as needed.

2.5 Drug Program Coordinator (DPC)

2.5.1. Each Center will designate a DPC assigned to carry out the purposes of this Plan for implementing, directing, administering, and managing the Drug-Free Workplace Program at their respective Center. This includes coordinating with the MRO (see chapter 2, paragraph 2.4).

2.5.2. In coordination with Center officials and the EAP Coordinator, the DPC will publicize and disseminate Drug-Free Workplace Program educational materials and oversee training and education sessions regarding drug use and rehabilitation.

2.5.3. The DPC will serve as the principal contact with the laboratory in ensuring the effective operation of the testing portion of the program. The DPC will, in conjunction with the DPM, among other duties and responsibilities accomplish the following:

2.5.3.1. Arrange for all testing authorized under this Plan.

2.5.3.2. Ensure that all employees, subject to random testing, receive individual notice as described in chapter 4, paragraph 4.4.1.4., and that such employees return a signed acknowledgment of receipt.

2.5.3.3. Document, through written inspection reports, all results of laboratory inspections conducted.

2.5.3.4. Coordinate with and report to the DPM on DPC activities and findings that may affect the reliability or accuracy of laboratory results.

2.5.3.5. Coordinate administrative actions with management when a finding of illegal drug use occurs under this Plan.

2.6 EAP Coordinator

The EAP Coordinator at each Center will, in conjunction with the EAP Administrator perform the following:

2.6.1. Implement the local EAP.

2.6.2. Provide counseling and treatment services to all employees that are referred to the EAP by their supervisors or on self-referral and, otherwise, offer employees the opportunity for counseling and rehabilitation.

2.6.3. Coordinate with the DPC, MRO, and supervisors, as appropriate.

2.6.4. Work with the DPC to provide educational materials and training to managers, supervisors, and employees on illegal drugs in the workplace to include the recognition and documentation of facts and circumstances that support a reasonable suspicion that an employee may be using illegal drugs.

2.6.5. Assist supervisors whose employees have performance and/or personal problems that may be related to illegal drug use.

2.6.6. Monitor the progress of referred employees during and after the rehabilitation period.

2.6.7. Periodically visit rehabilitation or treatment organizations to meet administrative and staff members, tour the site, and ascertain the experience, certification, and educational level of the staff and the organization's policy concerning progress reports on clients and posttreatment followup.

2.6.8. Maintain a list of rehabilitative and treatment organizations that provide counseling and rehabilitative programs.

2.7 EAP Counselors

EAP Counselors at each Center will perform the following:

2.7.1. Serve as the initial point of contact for employees who ask or are referred for counseling.

2.7.2. Be familiar with all applicable laws and regulations, including drug treatment/rehabilitative insurance coverage that is available to employees through the Federal Employee Health Benefits Program.

2.7.3. Be qualified and trained in counseling employees in the occupational setting and familiar with identifying illegal drug use.

2.7.4. Ensure privacy of the employee's record and treatment in accordance with this Plan.

2.7.5. Document and sign the treatment Plan prescribed for all employees referred for counseling or rehabilitation, after obtaining the employee's signature on this document.

2.7.6. In making referrals, consider the following:

2.7.6.1. Nature and severity of the problem.

2.7.6.2. Location of the treatment.

2.7.6.3. Cost of the treatment.

2.7.6.4. Intensity of the treatment environment.

2.7.6.5. Availability of inpatient/outpatient care.

2.7.6.6. Other special needs (e.g., transportation).

2.7.6.7. The preferences of the employee.

2.8 Supervisors

2.8.1. Supervisors will become familiar with the requirements of this Plan, especially the provisions concerning ensuring employees that their personal dignity and privacy will be respected in accordance with chapter 4, paragraph 4.2.

2.8.2. Except as modified by NASA management to suit specific program responsibilities, all supervisors will attend a training session on illegal drug use in the workplace.

2.8.3. Supervisors may recommend a reasonable suspicion test, after first making appropriate factual observations and documenting those observations and obtaining approval from the appropriate management officials.

2.8.4. Upon a finding of illegal drug use, supervisors will refer employees to an EAP Counselor for assistance in obtaining counseling and rehabilitation.

2.8.5. Upon a finding of illegal drug use, supervisors will initiate appropriate disciplinary action in accordance with chapter 5.

2.8.6. Supervisors will assist higher level supervisors and the EAP Coordinator in evaluating employee performance and/or personnel problems that may be related to the use of illegal drugs.

Chapter 3. Training and Education

3.1 Implementation

Under the direction of the DPM, the Director, Training and Development Division, will develop a training package to ensure that all employees and supervisors are fully informed of the NASA Drug-Free Workplace Program. Each Center will implement the training package.

3.2 Supervisory Training

Since supervisors have a key role in establishing and monitoring a drug-free workplace, NASA shall provide training to assist supervisors in recognizing and addressing illegal drug use by NASA employees. Supervisory training will be required of all supervisors and may be presented as a separate course or be included as part of an ongoing supervisory training program. Training will be provided as soon as possible after a person assumes supervisory responsibility; however, failure to receive such training will not invalidate otherwise proper management decisions relating to this Plan. The purpose of supervisory training is to provide the following information:

- 3.2.1. NASA policies relevant to work-performance problems, drug use, and the NASA EAP.
- 3.2.2. The rights of employees.
- 3.2.3. The responsibilities of offering EAP services.
- 3.2.4. The ways that performance and behavioral changes should be recognized and documented.
- 3.2.5. The roles of the medical staff, supervisors, personnel, and EAP personnel.
- 3.2.6. How to use the NASA EAP.
- 3.2.7. How EAP relates to the performance appraisal and the disciplinary process.
- 3.2.8. The process of reintegrating employees into the workforce who have successfully completed a rehabilitative program.

3.3 Employee Education

Each Center will offer drug education to all employees which includes the following:

- 3.3.1. Objectives
 - 3.3.1.1. Types and effects of drugs.
 - 3.3.1.2. Rights of the employee.
 - 3.3.1.3. Symptoms of drug use and the effects on performance and conduct.
 - 3.3.1.4. The relationship of the EAP to the Drug-Free Workplace Program.
 - 3.3.1.5. Other relevant treatment, rehabilitative, and confidentiality issues.
- 3.3.2. Means of Education

Drug education activities may include the following:

- 3.3.2.1. Distribution of written materials.

3.3.2.2. Videotapes.

3.3.2.3. Lunchtime employee forums.

3.3.2.4. Employee drug-awareness days.

3.4 Union Officials

Each Center will provide orientation and training to union officials.

Chapter 4. Testing for Illegal Drugs

4.1 Technical Guidelines for Drug Testing

4.1.1. NASA shall adhere to all scientific and technical guidelines for Federal drug-testing programs promulgated by HHS which are consistent with the authority granted by the Order and to the requirements of Section 503 of the Act. To the extent that any of the procedures specified in this chapter are inconsistent with any of those specified in the HHS Mandatory Guidelines or any subsequent amendment thereto, such HHS Mandatory Guidelines or amendment shall supersede the procedures specified in this chapter, but only to the extent of the inconsistency.

4.1.2. NASA's Drug-Free Workplace Program shall have trained collection personnel, a laboratory certification program, analytical standards and quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

4.1.3. All laboratories designated for analyzing drug tests must be approved and certified by HHS.

4.1.4. All tested employees will receive written notification of their test results.

4.1.5. If the verification test indicates the presence of an illegal drug, the MRO will contact the employee and provide him/her the opportunity to justify the positive test result. If the employee chooses to offer an explanation for the positive test result, he/she may present to the MRO any information and/or declare any condition he/she believes might have affected the test result (e.g., prescribed medication). The MRO will consider all information provided. Employees are not entitled to present evidence to the MRO in a trial-type administrative proceeding, although the MRO has the discretion to accept evidence in any manner he/she deems most efficient or necessary.

4.1.5.1. If the MRO determines that the employee's justification for the positive test result is adequate, the employee will be so notified, in writing, by the DPC, and the testing procedure is concluded at this point.

4.1.5.2. If the MRO determines that the employee's justification for the positive test result is not sufficient, the findings are forwarded to the DPC for further action.

4.1.5.3. Upon receipt of MRO findings (see paragraph 4.1.5.2), the DPC shall advise the employee that he/she may request a second test of the specimen and will arrange contact with the MRO, if desired. The second test will be conducted at the same NASA-contracted laboratory, at NASA expense. The employee can also request a second test at another HHS-certified laboratory. In such instances, the contracted laboratory used by NASA will send a portion of the original sample to the laboratory designated by the employee. The cost of this test shall be paid by the employee.

4.1.6. If an employee is found to use illegal drugs and that employee occupies a TDP, NASA management will determine the appropriate course of action in accordance with chapter 5.

4.2 Privacy Provision

4.2.1. Any individual, subject to testing under this Plan, shall be permitted to provide urine specimens in private and in a rest room stall or similar enclosure so that the employee is not observed while providing the sample, except in those cases where collection-site personnel, with the approval of the Center's DPC, have reason to believe the individual may alter or substitute the specimen to be provided. Such belief should be supported by one of the following:

4.2.1.1. The individual's behavior suggests that he/she is under the influence of drugs at the time of the test.

4.2.1.2. The individual has previously been found by NASA to be an illegal-drug user.

4.2.1.3. At the time of testing, the individual is found to possess the means of tampering or altering urine samples.

4.2.1.4. The individual has previously tampered with a sample.

4.2.2. When observation is required, the Agency shall select the observer, if there is no collection-site personnel of the same gender available.

4.3 Notice to Employees

4.3.1. A general notice announcing the NASA Drug-Free Workplace Program was provided to all employees at least 60 days prior to the implementation date of this Plan which explained:

4.3.1.1. The purpose of the NASA Drug Free Workplace Program.

4.3.1.2. That the Program included both voluntary and mandatory testing.

4.3.1.3. That those who held positions selected for random testing would also receive an individual notice, prior to the commencement of testing, indicating that their position had been designated a TDP.

4.3.1.4. The availability and procedures necessary to obtain counseling or rehabilitation through the EAP.

4.3.1.5. The circumstances under which testing may occur.

4.3.1.6. That opportunity will be afforded to submit medical documentation of lawful use of an otherwise illegal drug.

4.3.1.7. That the laboratory assessment is a series of tests which are highly accurate and reliable and that, as an added safeguard, laboratory results are reviewed by the MRO.

4.3.1.8. That all medical and rehabilitative records will be deemed confidential "patient" records in accordance with chapter 7, paragraph 7.1 and may not be disclosed without the prior written consent of the patient, except for the conditions listed in paragraph 4.3.1.9.

4.3.1.9. That a verified positive test result may only be disclosed to:

a. The employee.

b. The appropriate EAP Coordinator.

c. Any management or Government official(s) whose duties necessitate review of the test result in order to process an adverse personnel action against the employee.

d. A court of competent jurisdiction or where required by the U.S. Government to defend against any adverse personnel action.

4.3.1.10. That NASA may conduct reasonable-suspicion, accident, or unsafe-practice testing without regard to the 60-day notice requirement.

4.4 Types of Testing

4.4.1. Random Testing

4.4.1.1. Employees occupying positions that have been determined to be a TDP are subject to random testing. (TDP's are listed in Appendix A, and the criteria followed in determining the actual TDP list is contained in Appendix B.)

4.4.1.2. Pursuant to 42 U.S.C. 290 ee!l(b)(2), all positions that have been or will be designated as TDP's under this Plan are "sensitive positions" as that term is defined in 42 U.S.C. 290 ee!l(b)(2) and are, therefore, exempted from coverage under 42 U.S.C. 290 ee!l(b)(1), which provides that no person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the basis of prior drug abuse.

4.4.1.3. The frequency of and the percentage of the TDP pool to be subject to random testing will be determined according to management's needs (i.e., generally 10 percent of the total TDP pool each year).

4.4.1.4. Individual Notice

a. In addition to the general notice, an individual notice will be distributed to all employees in TDP's explaining, in addition to the information provided in the general notice, the following:

(1) The employee's position has been designated a TDP.

(2) The employee has the opportunity to identify himself/herself voluntarily as a user of an illegal drug and to receive counseling or rehabilitation.

(3) It is NASA policy, as stated in chapter 5, paragraph 5.2, that disciplinary action will not be taken against employees who are found to be using an illegal drug, if the employee accomplishes the following:

- (a) Voluntarily identifies himself/herself as a user of an illegal drug.
- (b) Successfully completes counseling and rehabilitation.
- (c) Thereafter refrains from using illegal drugs.

b. The employee will be subject to random testing no sooner than 30 days after the date of this notice.

c. Each employee in a TDP shall be asked to acknowledge, in writing, that the employee has received and read the notice that states that the employee's position has been designated for random drug testing, and that refusal to submit to testing will result in initiation of disciplinary action, up to and including removal.

d. If the employee refuses to sign the acknowledgment, the employee's supervisor shall note on the acknowledgment form that the employee received the notice. This acknowledgment shall be collected and maintained by each Center for easy retrieval and is advisory only.

e. An employee's failure to sign the notice shall not preclude testing that employee or otherwise affect the implementation of the Plan since the general 60-day notice will have previously notified all employees of the requirement to be drug free.

4.4.1.5. Notification of Selection. An individual selected for random testing, as well as, the first-level supervisor, will be notified, preferably, on the same day that the test is scheduled and within 2 hours of the scheduled testing. The supervisor will explain to the employee that the employee is under no suspicion of taking drugs, and that the employee's name was selected randomly.

4.4.1.6. Deferral of Testing

a. If the first- and second-level supervisors agree, an employee's test may be deferred, if a compelling need necessitates a deferral on the following grounds:

- (1) The employee is in an approved leave status (administrative, annual, sick, or leave-without-pay status);
- (2) The employee is in official travel status or is about to embark on official travel; or
- (3) The employee needs to perform a task or function that is time critical and for which no other employee can be substituted.

b. An employee whose test is deferred will be subject to an unannounced test within the 60 days following the deferral.

4.4.1.7. Administrative Relief. If an employee disagrees that his/her position is a TDP, he/she may file an administrative appeal to the NASA Administrator (or designee). The appeal must be submitted by the employee, in writing, within 15 days of the date that the employee is notified that his/her position is a TDP. The appeal must set forth all relevant information. The decision by the NASA Administrator (or designee) is final. There is no further administrative appeal.

4.4.1.8. Employee Counseling and Assistance

a. While participating in a counseling or rehabilitative program, the employee may be exempted from the random TDP pool for a period not to exceed 60 days or for a time period specified in an abeyance contract or rehabilitative plan approved by NASA management.

b. Upon successful completion of the counseling or rehabilitative program, the employee will immediately be returned to the TDP pool and will be subject to followup testing pursuant to chapter 4, paragraph 4.4.5.

4.4.2. Reasonable-Suspicion Testing

4.4.2.1. Individuals Subject to Reasonable-Suspicion Testing

a. Reasonable-suspicion testing may be required of any employee in a position that is designated for random testing when there is a reasonable suspicion that the employee uses illegal drugs whether on or off duty. Reasonable-suspicion

testing may also be required of any employee in any position when there is reasonable suspicion of on-duty drug use or on-duty drug impairment.

b. Reasonable-suspicion testing does not require certainty; however, undocumented "hunches" are not sufficient to warrant such testing. Among other things, reasonable-suspicion testing may be based upon the following:

- (1) Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug;
- (2) Arrest or conviction in the last year for a drug-related offense or the identification of an employee as the focus of a criminal investigation into illegal-drug possession, use, or trafficking (e.g., distribution of a controlled substance);
- (3) Information provided either by reliable and credible sources or by independent corroboration; or
- (4) Newly discovered evidence that the employee has tampered with a previous test result.

4.4.2.2. Procedures

a. If an employee is suspected of using illegal drugs, the supervisor will document, in writing, the information, facts, and circumstances that form the basis to recommend reasonable-suspicion testing. The written report will include, at a minimum, the appropriate dates and times of the drug-related incidents, reliable (credible) sources of information, and the rationale leading to the recommendation for the test. If reasonable-suspicion testing is conducted, the documentation will be appended to include the findings of the test and the action taken. Concurrence by a higher level supervisor is required, in advance, for all reasonable-suspicion tests.

b. Upon determination of reasonable suspicion, and after approval from the appropriate management official, the supervisor will contact the DPC, who will normally schedule the test within 2 hours of being notified.

c. Any employee with a verified positive test result will be subject to the same conditions and procedures as an employee found to use illegal drugs through any other means.

4.4.3. Accident or Unsafe Practice Testing

4.4.3.1. NASA is committed to providing a safe and secure working environment. It also has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Postaccident drug testing can provide invaluable information in furtherance of that interest. Accordingly, an employee may be subject to testing when, based upon the circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:

- a. The accident results in a death or personal injury requiring immediate hospitalization, or
- b. The accident results in damage estimated to be in excess of \$10,000 to Government or private property.

4.4.3.2. If an employee is suspected of having caused or contributed to an accident meeting either of the above criteria, the appropriate supervisor will present the facts leading to this suspicion to the NASA Administrator (or designee) for approval. Once approval has been obtained and arrangements have been made with the DPC for testing, the supervisor will prepare a written report detailing the facts and circumstances that warranted the testing. A test should be scheduled as expeditiously as possible.

4.4.4. Voluntary Testing

4.4.4.1. Employees not in TDP's may volunteer for unannounced random testing by notifying the Center DPC. These employees will then be included in the pool of TDP's subject to random testing and will be subject to the same conditions and procedures for finding of illegal drug use as those employees found to use illegal drugs through any other means.

4.4.4.2. Volunteers will remain in the TDP pool for the duration of the position that the employee holds or until the employee withdraws from participation by notifying the DPC of such intent at least 48 hours prior to a scheduled test.

4.4.5. Followup Testing

4.4.5.1. All employees who have been referred through administrative channels and who successfully complete rehabilitation for illegal drug use will be subject to unannounced drug testing for a period of 1 year, at an increased frequency of no less than four times per year, or as agreed to in the abeyance contract.

4.4.5.2. Followup testing is distinct from testing that may be imposed as a component of the EAP.

Chapter 5. Finding of Illegal Drug Use and Disciplinary Consequences

An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to, direct observation, evidence obtained from an arrest or criminal conviction, a verified positive test result, or an employee's voluntary admission.

5.1 Mandatory Administrative Actions

5.1.1. NASA shall refer an employee found to use illegal drugs to the EAP.

5.1.2. If an employee found to use illegal drugs occupies a TDP, NASA management will immediately take the employee out of that position.

5.1.3. At the discretion of the NASA Administrator (or designee) and as part of an EAP, an employee may be permitted to return to duty in a TDP if the employee's return would not endanger public health or safety or national security.

5.2 Range of Consequences

5.2.1. The severity of the disciplinary action taken against an employee found to use illegal drugs will depend on the circumstances of each case, will be consistent with the Order, and will include the full range of disciplinary actions, including removal. NASA shall initiate disciplinary action against any employee found to use illegal drugs but shall not discipline an employee who voluntarily admits to illegal drug use, in accordance with chapter 5, paragraph 5.3.

5.2.2. Such disciplinary action, consistent with any governing collective-bargaining agreement and the Civil Service Reform Act and other statutes, NASA orders, and regulations, may include any of the following measures, but some disciplinary action must be initiated:

5.2.2.1. Reprimanding the employee in writing.

5.2.2.2. Placing the employee in an enforced leave status.

5.2.2.3. Suspending the employee for 14 days or less.

5.2.2.4. Suspending the employee for 15 days or more.

5.2.2.5. Suspending the employee until the employee successfully completes the EAP or until NASA determines that action other than suspension is more appropriate.

5.2.2.6. Reducing the employee in pay or grade.

5.2.2.7. Removing the employee from Federal service.

5.3 Voluntary Referral

Under the Order, NASA is required to initiate action to discipline any employee found to use illegal drugs in every circumstance, except one. If an employee (1) voluntarily admits his or her drug use; (2) completes counseling or an EAP; and (3) thereafter refrains from drug use, such discipline "is not required."

5.3.1. Because the Order permits an agency to create a "safe harbor" for an employee who meets all three of these conditions, NASA has decided to create such a "safe harbor" and will not initiate disciplinary action against employees who satisfy the provisions of chapter 5, paragraph 5.3, of this Plan.

5.3.2. A fundamental purpose of NASA's Drug-Free Workplace Program is to assist employees who, themselves, are seeking treatment for drug use. For this reason, NASA will not initiate disciplinary action against any employee who meets all three of the following conditions:

5.3.2.1. Voluntarily identifies himself/herself as a user of illegal drugs, prior to being identified through other means.

5.3.2.2. Successfully completes counseling or rehabilitation through an EAP, including followup testing.

5.3.2.3. Thereafter refrains from using illegal drugs.

This self-referral option allows any employee to step forward and identify himself/herself as an illegal drug user for the purpose of entering a drug-treatment program under the EAP.

5.3.3. Since the key to this provision's rehabilitative effectiveness is an employee's willingness to overcome "denial" by means of a voluntary self-identification--a decision on the employee's part to admit his or her problem to himself/herself and to others--this provision will not be available to an employee who is asked to provide a urine sample under random, reasonable suspicion, accident or unsafe practice testing, and who thereafter (i.e., just before or after the sample is collected) "admits" his or her drug use.

5.4 Initiation Of Mandatory Removal From Federal Service

NASA will initiate action to remove an employee for the following:

5.4.1. Refusing to obtain counseling or rehabilitation through an EAP, as required by the Order after having been found to use illegal drugs.

5.4.2. Having been found to have used illegal drugs following a first finding of illegal drug use.

5.5 Failure To Appear For Testing

5.5.1. Failure to appear for testing without justification acceptable to NASA management will be considered refusal to participate in testing and will subject an employee to the full range of disciplinary actions, including removal.

5.5.2. If an individual fails to appear at the collection site at the assigned time, the collector will contact the Center DPC who will initiate appropriate action.

5.6 Refusal To Take A Drug Test

5.6.1. An employee who refuses to be tested when so required will be subject to the full range of disciplinary action, including removal.

5.6.2. Attempts to alter, substitute, or tamper with the collection of the specimen will be deemed a refusal to take the drug test.

Chapter 6. Rehabilitation

6.1 Employee Assistance Program (EAP)

6.1.1. Center EAP's

6.1.1.1. Assist supervisors who have employees with performance and/or conduct problems and make referrals to treatment and rehabilitative facilities.

6.1.1.2. Provide counseling and assistance to employees who refer themselves for treatment or who have been found to be illegal drug users and monitor their progress through treatment/rehabilitation.

6.1.1.3. In cooperation with the DPC, make available to all NASA employees, education and training on the types and effects of drugs, symptoms of drug use, and impact of drugs on performance and conduct, relationship of the EAP with the NASA Drug-Free Workplace Program, and related treatment, rehabilitative, and confidentiality issues.

6.1.2. The EAP shall be administered separately from the NASA Drug-Free Workplace Program. For those duties and responsibilities belonging to the DPC, refer to chapter 2, paragraph 2.5.

6.2 Referral And Availability

6.2.1. The EAP shall provide counseling and rehabilitative services for all referrals, as well as education and training for all employees regarding use of illegal drugs. Any employee found to be using illegal drugs will be referred to the EAP; however, the EAP will be available to all employees without regard to a finding of illegal drug use. When feasible, the EAP is also available to NASA employees with family members who have drug problems.

6.2.2. In the event that the employee is not satisfied with the program of treatment or rehabilitation, such employee may seek review of the EAP Coordinator's referral by notifying the EAP Administrator prior to completion of the program. The decision of the EAP Administrator shall be final and shall not be subject to further administrative review. Regardless of the treatment program chosen, the employee remains responsible for successful completion of the treatment, and assertions that the counselor failed to consider one or more of the factors in chapter 2, paragraph 2.7.6, in making a referral shall constitute neither an excuse for continuing to use illegal drugs nor a defense against disciplinary action if the employee does not complete treatment.

6.3 Leave Allowance

6.3.1. During the assessment/referral phase of rehabilitation, an employee shall be allowed up to 1 hour (or more as necessitated by travel time) of excused absence for each counseling session up to a maximum to be determined by the supervisor according to workload requirements and leave-usage law, regulations, and NASA policy.

6.3.2. Absences during duty hours for rehabilitation/treatment after the assessment/referral phase must be charged to the appropriate leave category (annual, sick, or leave without pay (LWOP)) in accordance with law and leave regulations.

Chapter 7. Records and Reports

7.1 Confidentiality Of Test Results

7.1.1. The laboratory may disclose confirmed laboratory test results only to the MRO. Any positive result that the MRO justifies by licit and appropriate medical or scientific documentation to account for the results as other than the intentional ingestion of an illegal drug, will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results will be protected under the provisions of the Privacy Act of 1974, 5 U.S.C. 552(a), et seq., and Public Law 100-71, Section 503(e) and may not be released in violation of either Act. The MRO may maintain only those records necessary for compliance with the Order. Any records of the MRO, including drug-test results, may be released to any supervisor or management official(s) having authority to take adverse personnel actions for purposes of auditing the activities of the MRO, except that the disclosure of the results of any audit may not include personal identifying information on any employee.

7.1.2. In order to comply with Public Law 100-71, Section 503(e), the results of a drug test of a NASA employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be to any of the following:

7.1.2.1. The MRO;

7.1.2.2. The EAP Administrator, when the employee is receiving counseling or treatment;

7.1.2.3. Any supervisor or management official(s) within NASA having authority to take or recommend adverse personnel action against such employee; or

7.1.2.4. Pursuant to the order of a court of competent jurisdiction where required by the United States Government to defend against any adverse personnel action.

7.1.3. Test results with all identifying information removed shall also be made available to NASA personnel, including the DPC, for data collection and other activities necessary to comply with Section 503(f) of the Act.

7.2 Employee Access To Records

Any employee who is the subject of a drug test will, upon written request, have access to any records relating to the following:

7.2.1. Such individual's drug test.

7.2.2. The results of any relevant certification, review, or revocation of proceedings, as referred to in Section 503(a)(1)(a)(ii)(III) of the Act.

7.3 Confidentiality Of Records In General

7.3.1. All drug-testing information, specifically relating to individuals, is confidential and should be treated as such by anyone authorized to review or compile program records. In order to implement the Order efficiently and to make information readily retrievable, the DPC shall maintain all records relating to reasonable-suspicion testing, suspicion of tampering evidence, and any other authorized documentation necessary.

7.3.2. All records and information of the personnel actions taken on employees with verified positive test results should be forwarded to the appropriate personnel office representative. Such shall remain confidential, appropriately safeguarded, allowing access only to authorized individuals who have a "need-to-know."

7.4 Maintenance Of Records

7.4.1. NASA has established a recordkeeping system to maintain the records of this Plan, consistent with the NASA Privacy Act System of Records and with all applicable Federal laws, rules, and regulations on confidentiality of records.

7.4.2. If necessary, records may be maintained as required by subsequent administrative or judicial proceedings or at the discretion of the NASA DPM.

7.4.3. The recordkeeping system captures sufficient documents to meet the operational and statistical needs of this Plan and include the following:

7.4.3.1. Notices of verified positive test results referred by the MRO.

7.4.3.2. Written materials justifying reasonable-suspicion testing or evidence that an individual may have altered or tampered with a specimen.

7.4.3.3. Anonymous statistical reports.

7.4.3.4. Other documents that the DPC, MRO, or EAP Administrator deem necessary for compliance with this Plan.

7.5 Employee Assistance Program (EAP) Records

7.5.1. The EAP Administrator shall maintain only those records necessary to comply with the Order. After a management official refers an employee, the EAP Administrator will maintain all records necessary to carry out his/her duties.

7.5.2. All medical and/or rehabilitative records concerning the employee's drug abuse, including EAP records of the identity, diagnosis, prognosis, or treatment are confidential and may be disclosed only as authorized by 42 CFR Part 2, including the provision of written consent by the employee.

7.5.3. With written consent, the patient may authorize the disclosure of those records to the patient's employer for verification of treatment or for a general evaluation of treatment progress (42 CFR Part 2).

7.6 Statistical Information

7.6.1. The DPC shall collect and compile anonymous statistical data for reporting the following:

7.6.1.1. Random, reasonable suspicion, accident or unsafe practice, and followup tests administered.

7.6.1.2. Verified positive test results.

7.6.1.3. Voluntary drug counseling referrals.

7.6.1.4. Involuntary drug counseling referrals.

7.6.1.5. Terminations resulting from the following:

a. Refusal to submit to testing.

b. Alteration of specimens.

c. Failure to complete an EAP counseling or rehabilitative program successfully and followup testing.

7.6.1.6. Employees who successfully complete the EAP counseling or rehabilitative program and followup testing.

7.6.2. These data, along with other pertinent information, will be compiled for inclusion in the Agency's annual report to Congress, required by Section 503(f) of the Act. These data will also be provided to HHS upon their request to assist in overall program evaluation and to determine whether changes to the HHS Mandatory Guidelines may be required.

7.7 Records Maintained By Government Contractors

Any contractor hired to satisfy any part of the Order shall comply with the confidentiality requirements of the Order and applicable Federal laws, rules, regulations, and guidelines.

Appendix A. Testing Designated Positions (TDP's)

From the outset, NASA's approach in determining TDP's subject to random drug testing has emphasized careful consideration and development of the criteria to be used in designating TDP's and full participation by the NASA Centers. NASA-specific criteria (Appendix B) was first developed by the NASA Drug-Free Workplace Steering Committee, which included representatives from the Headquarters Program Offices and was later refined after consultation with the Centers. Rather than broad occupational coverage determinations, the TDP criteria emphasize the review of the specific tasks performed and the level of responsibility exercised in individual positions. Each Center reviewed its positions, as compared to the NASA-specific criteria, and developed initial coverage determinations that were reviewed and approved first by their Program Office representatives and later by the whole Steering Committee.

The categories of positions contained herein identify the "pool" of positions that will be subject to random drug testing. Consistent with its duty to achieve a drug-free workplace under E.O. 12564, NASA reserves the right to make changes, additions, and deletions to the TDP list. Information on specific TDP positions may be obtained from the DPC at each Center.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION POSITIONS DESIGNATED AS BEING SUBJECT TO RANDOM DRUG TESTING

(Refer to the following list to answer questions about specific types of positions covered Agencywide. Recognize that the list will change over time. Centers may want to include a reference list of that Center's TDP's as a more specific reference tool.)

<u>Classification Series Number</u>	<u>Classification Series Title</u>
018	Safety & Occupational Health
080	Security Administration
081	Fire Protection & Prevention
150	Geography
180	Psychology
201	Personnel Management
230	Employee Relations
260	Equal Opportunity

301	General Administration
303	Miscellaneous Clerical
334	Computer Specialist
335	Computer Clerical & Assistance
340	Program Management
344	Management Clerical & Assistance
391	Communications Management
393	Communications Specialist
602	Medical Officer
609	Industrial Hygiene
680	Dental Officer
801	General Engineering
802	Engineering Technician
803	Safety Engineering
804	Fire Prevention Engineering
830	Mechanical Engineering
850	Electrical Engineering
855	Electronics Engineering
856	Electronics Technician
861	Aerospace Engineer
905	General Attorney
1101	General Business & Industry
1102	Contracting

1152	Production Control
1301	General Physical Science
1306	Health Physics
1310	Physics
1311	Physical Science Technician
1330	Astronomy & Space Science
1410	Librarian
1412	Technical Information Services
1520	Mathematics
1550	Computer Science
1601	General Facilities & Equipment
1640	Facilities Management
1670	Equipment Specialist
1811	Criminal Investigator
1910	Quality Assurance
2101	Transportation Specialist
2181	Aircraft Operation
NOT STATED	Drug Program Coordinator
2604	Electronic Mechanic
2610	Electronic Integrated Systems Mechanic
2805	Electrician
2810	Electrician (High Voltage)
4402	Binding Working

4417	Offset Press Operating
4745	Research Laboratory Mechanic
5335	Wind Tunnel Mechanic
5401	Industrial Equipment Operating
5402	Boiler Plant Operating
5703	Motor Vehicle Operating
8268	Aircraft Pneudraulic System Mechanic
8801	Aircraft Overhead
8852	Aircraft Mechanic

Appendix B. NASA Guidelines For Determining Testing Designated Positions (TDP's) Subject To Random Drug Testing

I. Background

Executive Order 12564, Drug-Free Federal Workplace, signed by President Reagan on September 15, 1986, charged the head of each Executive agency to establish a program to test for the use of illegal drugs by employees in sensitive positions as one component of a comprehensive drug-prevention program.

The Order stated that the extent to which such employees are tested and the criteria for such testing shall be determined by the head of each agency, based upon the nature of the agency's mission and its employees' duties, the efficient use of agency resources, and the danger to the public health and safety or national security that could result from the failure of an employee to adequately discharge the duties of his or her position.

The Order defined the term "employee in a sensitive position" to refer to the following:

1. An employee in a position that an agency head designates Special Sensitive, Critical-Sensitive, or Noncritical-Sensitive or an employee in a position that an agency head designates as sensitive in accordance with Executive Order 10450, as amended.
2. An employee who has been granted access to classified information or may be granted access to classified information pursuant to a determination of trustworthiness by an agency head under Section 4 of Executive Order 12356, National Security Information.
3. Individuals serving under Presidential appointments.
4. Law enforcement officers as defined in 5 U.S.C. 8331(20).
5. Other positions that the agency head determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

As part of its Model Plan, the Interagency Coordinating Group (ICG) published specific criteria for determining which positions, within the pool of potential positions, should be subject to random drug testing. These guidelines provide the Agency's interpretation of those criteria.

II. Guidelines

These guidelines for selecting TDP's will provide assistance and reference in the determination of the positions that will be subject to random testing for illegal drug use. No other criteria are to be used to determine TDP's.

The ICG Model Plan TDP Selection Criteria identified six specific types of positions that may be considered for TDP selection. These guidelines address each type of position in turn.

1. Sensitive Positions. This category includes all positions with a Special Sensitive, Critical-Sensitive, or Noncritical-Sensitive designation according to Executive Order 12356. Positions under this category should not be designated as a TDP solely on the basis that the position is sensitive as described in Executive Order 12356.
2. Positions With Security Clearances. This category includes all positions that have been granted a security clearance. Positions under this category should not be designated as a TDP solely on the basis that the position has been granted a security clearance.

3. Presidential Appointment Positions. This category includes all positions filled by Presidential appointment, whether confirmed by the Senate or not. All Presidential appointment positions will be designated as TDP's.

4. Law Enforcement Positions.

a. This category includes all positions defined as law enforcement positions under 5 U.S.C. 8331(20) and 8401(17). All law enforcement officer positions, as defined above, will be designated as TDP's unless one of the following exists:

- (1) The position is administrative and has no direct law enforcement responsibility;
- (2) The position does not have a significant level of direct contact with persons being investigated, apprehended, or detained; or
- (3) The position involves low priority or routine work.

b. This category also includes any positions that perform law-enforcement-related work but do not meet the statutory definition above. Such positions include those involved in police, security, or investigative work. Include as TDP's only those positions that involve the following:

- (1) Serious criminal investigations such as felonies or violent crime;
- (2) Investigation of high-level officials;
- (3) Significant contact with the public;
- (4) Access to and use of firearms and other weapons; or
- (5) Access to information concerning law enforcement operations, methods, and policies.

5. Principal Function Positions.

a. This category includes positions that involve the performance of work on a regular, recurring basis in any one of six different functions in which the effects of errors or mistakes are likely to result in the loss of life, serious injury, and/or significant loss of property. The ICG Model Plan TDP Selection Criteria provides separate and distinct criteria for each of the following six different functions:

- (1) National Security.
- (2) Access to Highly Sensitive Computer or Financial Data.
- (3) Work with Explosive, Toxic, Radioactive, or Other Dangerous Materials or Substances, or Fluids or Gases Under Pressure.
- (4) Operation or Maintenance of Transportation or Major Mechanical or Electrical Equipment.
- (5) Protection of Life and Property.
- (6) Public Health or Safety.

b. These guidelines address each of these functions, combining those that are directly related in the accomplishment of the Agency's mission.

(1) National Security. This function includes those positions associated and directly involved with national security. Depending upon the responsibilities of the position, exclude positions according to the following:

- (a) The position is covered under another category; e.g., protection of life and property.
- (b) The position does not operate independently and is subject to sufficient levels of review to minimize the effects of errors or misconduct.
- (c) The position's national security component is questionable and, upon examination, is redesignated without it.
- (d) The position has such infrequent contact with national security matters that the risk of errors associated with them would be minimal and could be identified quickly for corrective action.
- (e) The position operates under close review with little or no opportunity to take independent action.
- (f) Control systems are already in place to intercept and prevent improper action.

(g) The position's impact on the Agency or on the public is minimal.

(h) Errors that might occur are easily corrected, and any resulting damage is easily repaired.

(2) Access to Highly Sensitive Computer or Financial Data. This function includes those positions that have significant responsibility for the maintenance or management of highly sensitive computer or financial data. Because the Agency has an internal control system in place to intercept and prevent improper actions, no positions that perform financial, ADP, or administrative functions will be designated as a TDP solely on the basis that the position performs such functions. For a position that performs financial, ADP, and administrative-related functions to be designated as a TDP, the position must meet the criteria of one of the other functions under this category.

((3) Work with Explosive, Toxic, Radioactive or Other Dangerous Materials or Substances, or Fluids or Gases Under Pressure. This function includes those positions in which one or more of the above functions is a principal responsibility. All positions that involve direct hands-on work with such substances and materials, and/or the immediate supervision of such work, will be designated as TDP's unless the position is one of the following:

(a) Primarily administrative and does not involve direct contact with such substances and materials; or

(b) Involves direct contact with such substances and materials, but the potential risk or danger is minimal.

(4) Operation or Maintenance of Transportation or Major Mechanical or Electrical Equipment. This function includes those positions that are identified as motor vehicle operators under 5 CFR 930.102 and are required to operate a Government-owned or -leased motor vehicle and that are officially classified as a motor vehicle operator. The types of motor vehicles operated by incumbents in these positions are those designed and operated principally for highway transportation of property or passengers. All positions that involve the performance of the motor vehicle operator function, as defined above, will be designated as TDP's unless a position meets the exclusion criteria stated below.

This function also includes those positions whose principal function involves the hands-on operation or maintenance of major mechanical or electrical equipment such as electrical installation and maintenance, industrial equipment operation, and transportation operation and maintenance. All positions that involve the performance of the functions stated above will be designated as TDP's unless a position meets the exclusion criteria stated below.

Exclude those positions in which the principal function does not directly involve the operation and maintenance of such equipment. Positions to be excluded are as follows:

(a) Primarily supervisory or administrative.

(b) Involve equipment that poses minimal or no risk or danger to the operator, to others, or to property.

(5) Protection of Life and Property/Public Health or Safety. The criteria for these two functions have been combined to provide a uniform approach to consider positions whose principal functions include aspects of both, principally those positions that require real-time major decisionmaking in health, safety, and safe aerospace operations. Examples of this combined function would include the following positions:

(a) Perform aircraft maintenance, inspection, and/or operation-related work, such as aircraft or electronics mechanics, aircraft inspectors, quality assurance specialists.

(b) Serve as pilots or crewmembers of aircraft or spacecraft.

(c) Perform certain launch and in-flight operations work, such as in-flight directors, test directors, range safety officers, certain other flight or test specialists and technicians.

(d) Perform medical treatment and patient care or who have unmonitored, or minimally monitored, access to drugs, such as medical doctors, nurses, and medical technicians.

(e) Are directly involved in the operation of the drug-testing program, such as MRO's, DPC's, EAP coordinators and counselors.

(f) Perform other reliability and quality assurance, occupational health and safety tasks; e.g., firefighters.

All positions that perform real-time major decisions in the performance of its work tasks will be designated as TDP's. A real-time major decision is one that must be made with little opportunity for review of the decision in a timeframe adequate to accomplish the following:

- Reassess the possible consequences of an adverse decision.

- Take corrective action to overturn the decision which, if incorrect, would result in a situation that is irreparable or life threatening, or would result in significant property damage.

In determining whether a position requires real-time major decisions, assess the availability and type of review of the decision by others through direct supervision, documentation, simulation, or through automated systems and other checks and balances.

In assessing the availability of review, consider whether or not the work decision is reviewed in sufficient detail to ensure that it is correct, whether or not the work decision is reviewed or checked at all, or whether or not the work decision routinely receives only one level of review that is not comprehensive and detailed.

In assessing the type of review, consider all types of reviews, those performed by other organizations both internal and external to the Center and/or Agency or contractors, that are also likely to minimize the effects of errors and mistakes. Other review processes such as documentation, internal control, vulnerability assessments, personnel reliability programs, should also be considered if appropriate.

In assessing whether a position involves real-time decisions as defined above, the grade level of the position is not a determining factor. If a position makes real-time decisions, it is a TDP regardless if it is a Senior Executive Service, General Schedule (GS) 9, GS-12, or Wage Grade 7 position. The independent nature of the work-related decision and the possible adverse consequences of an erroneous decision are the TDP determining factors.

Positions that do not require real-time decisions as defined above, or positions that require real-time decisions but are subject to review and possible correction, or positions that require real-time decisions but present minimal potential for harm to life or property and where such harm may not be irreparable or life-threatening, should not be designated as TDP's.

In assessing supervisors and managers, the same criteria applies. If the position requires real-time decisions as defined above, the position is a TDP. If the position requires the supervisor or manager to be technically qualified to be called upon to make a real-time decision in lieu of the TDP-covered non-supervisory position, the position is a TDP.

On the other hand, if the supervisor or manager is not required to make real-time decisions or is not technically qualified to make the decision in lieu of the TDP-covered position, the position may not be a TDP, regardless of the fact that TDP's organizationally report to the supervisor or manager.

(6) Other Sensitive Positions. This category includes any other sensitive positions to be included in the testing pool that may not be considered elsewhere. For example, it may include high-level NASA officials that are routinely involved in the public trust such as Center Directors and Associate Administrators. It may also include security supervisors and specialists.

Appendix C. Drugs For Which Individuals Will Be Tested Under The NASA Drug-Free Workplace Plan

1. NASA Centers are required to test for the following drugs:
 - a. Marijuana metabolites.
 - b. Cocaine metabolites.
2. NASA Centers may test for phencyclidine, amphetamines, and opiates only with the prior concurrence of the NASA DPM.